

### **III. REMARKS**

In the Office Action, Claims 1-3, 7-12, and 14-22 were rejected under 35 U.S.C. 102(e) as being anticipated by Tuomela (US Pat. Applic. Pub. 2001/0031633), claim 13 was rejected under 35 U.S.C. 103 as being unpatentable over Tuomela, and claims 4-6 were rejected under 35 U.S.C. 103 as being unpatentable over Tuomela in view of Silverman (US 6,035,031) for reasons set forth in the Office Action.

The following argument is presented to show that the amended independent claims, as well as their respective dependent claims, are distinguishable from the teachings of the cited art, considered individually and in combination, to present allowable subject matter in the claims.

In the rejections of the claims, it appears that the examiner considers the expression in the present claims "communications connection proper" to read on the expression in Tuomela "instructing the system to put the call through" (cited by the examiner in the middle of page 4 of the Office Action). Tuomela teaches, with respect to the operation of his system [paragraph 0020] that, upon the occurrence of a call received at the called party from the calling party, if the received call is not answered, there is a checking of the current context. This shows that the calling party actually reaches the phone of the called party who possibly hears a ringing of the phone, and has the option of answering the call or not answering the call. In the passage of Tuomela [0024-0033] cited by the examiner, the Tuomela system then gives the calling party the option to put the call through immediately as an urgent call.

However, the situation contemplated by Tuomela, wherein the calling party actually reaches the phone of the called party, possibly at an inconvenient time for the called party, is to be avoided in the practice of the present invention. In the present specification (page 1 at lines 24-29, and page 2 at lines 27-31), it is taught that the calling party wants to avoid a calling of the called party at a time that is inconvenient for the called party. On page 3 at lines 16-19, the specification teaches that the calling

party first reaches the file arrangement, which sends back to the calling party a message that describes the current status of the called party. This is confirmed by the flow chart of Fig. 3, in conjunction with Fig. 1 and the text on page 6 at lines 18-22, wherein it is taught that an attempted reaching of the called party by the calling party is met by a recommendation and/or a presentation of options to the calling party. The present invention is operative, therefore, to prevent an annoyance of the called party by avoiding the situation wherein the called party may pick up the phone and answer the call personally at an inconvenient time. This feature of the invention is attained by having the call directed to a server of the file arrangement.

The independent claims 1, 4, 9, 14 and 16 have been amended to distinguish the present invention from the teachings of the cited art of Tuomela, considered alone and in combination with other ones of the cited references, by emphasizing a feature of the invention.

Claim 1 teaches that, before making an attempt to establish the communications connection proper with the receiving party, the calling party communicates with the file arrangement. The calling party then makes a check from the activity log of a receiving party to obtain information concerning the ability of the receiving party to receive a message sent by the calling party. Thereafter, based on that information, there is a making of a decision about the establishment of the communications connection proper.

It is noted that, in accordance with the subject matter of claim 1, the opportunity presented to the calling party for conducting the check of the activity log of a receiving party is independent of a possible answering, or not answering, of the telephone by the calling party. Thereby, there is an avoidance of a possible situation wherein the called party would experience the inconvenience of a call at an inappropriate time.

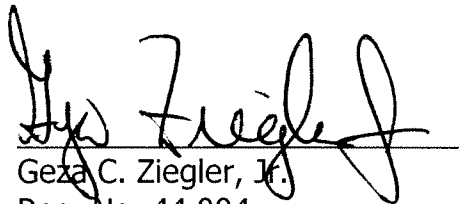
Corresponding amendments are made to the other independent claims. The foregoing observation of the subject matter of amended claim 1 applies also the subject matter of other ones of the amended independent claims, as well as to their respective

dependent claims. Therefore, this amendment is believed to overcome the grounds of rejection to provide allowable subject matter in the claims.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

  
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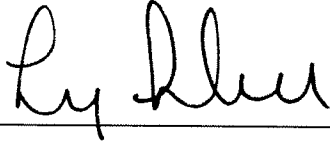
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